UNITED
NATIONS

HRI

International Human Rights Instruments

Distr.
GENERAL

HRI/CORE/1/Add.38
15 February 1994

ENGLISH
Original: FRENCH

CORE DOCUMENT FORMING THE INITIAL PART OF STATE PARTY REPORTS

TOGO

[29 December 1993]

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GE.94-15555 (E)

I. LAND AND PEOPLE

Geographical situation of Togo

1. Togo is a State situated in west Africa to the south of the Sahara. It is bounded to the north by the Republic of Burkina Faso, to the south by the Atlantic Ocean (Gulf of Guinea), to the east by the Republic of Benin and to the west by the Republic of Ghana. It has a surface area of 56,000 km^2 and an estimated population of 3.5 million, with an average density of 48 inhabitants per km^2. This population has diverse characteristics from the ethnic, religious and cultural standpoints.

The ethnic groups

2. The Togolese population is composed of a great number of ethnic groups. There are over 36, which are generally divided into six major categories:

(a) The Adja-Ewé, whose most important subgroups are the Ewé, the Ouatchi and the Guins;

(b) The Akposso-Akébou, who are mainly made up of the Akposso and the Akébou;

(c) The Ana-Ifê, who comprise the Ana and the Ifê;

(d) The Tem-Kabyè, who are dominated numerically by the Kabyè, Kotokoli, Losso and Lamba ethnic groups;

(e) The Para-N'gourma, who are made up of several ethnic groups, the largest of which are the Moba and the Gourma.

3. Other groups include the Haoussa, the Peulhs and many others whose affinities do not permit them to be classified within the above-mentioned groups (source: a study undertaken by researchers from the demographic research unit in August 1989). These various ethnic groups have the language or dialect of the peoples concerned.

Religions

4. In Togo, several religions are practised, the most important being: animism, Christianity and Islam (source: 1989 study on the Togolese population carried out under the auspices of the United Nations Population Fund (UNFPA). In recent years, there has been a proliferation of sects, which are not always easy to classify in a particular group. Among all these other religions mention may be made of the Jehovah's Witnesses, the Aladura, the Celestial Christianists, the Cherubim and Seraphim, the Brotherhoods, the Eternal is my Shepherd, the Apostolic Faith and the Holy Order of Deliverance.

Distribution of the population

5. Togo has a very young population. Children under the age of 15 account for 49.8 per cent of the total population, persons over the age of 15 making up 50.2 per cent, while persons over the age of 65 account for 3.9 per cent (source: Statistical elements of the 1981 census, p. 18).

6. The male population represents 49 per cent of the total population while the female population accounts for 51 per cent.

7. The rural population accounts for 75 per cent of the total population, the urban population being only 25 per cent. This inequality in distribution is explained by the fact that Togo is an essentially agricultural country (source: Statistical elements of the 1981 census).

8. Distribution by regions is as follows:

Coastal region	39.5 per cent
Plateaux region	23.7 per cent
Central region	10.8 per cent
Kara region	14.0 per cent
Savanna region	12.0 per cent

(source: Statistical estimates for 1988 cited in a survey conducted by UNFPA).

Population growth

9. The Togolese population is growing at a considerable rate. The growth rate during the period 1970-1981 was 2.9 per cent. In 1961 it was 2.6 per cent, in 1971 it remained the same and in 1981 it rose to 2.9 per cent. The estimated growth rate for the year 2000 is 3 per cent (source: Statistical elements of the 1981 census).

10. The birth rate is 45 per thousand as opposed to a mortality rate of 16 per thousand. The infant mortality rate is 81 per thousand. Life expectancy is 51 for women and 49 for men.

11. These data reveal a disparity between the mortality rate and the birth rate. This is the result of the progress achieved in the area of health care, drinking water and the practice of hygiene. These efforts, laudable though they are, do not mean that in fact, numbers of health personnel are adequate. In fact, only 61 per cent of the population have access to health services and 71 per cent to drinking water.

12. This shortage of health personnel is reflected in the low number of doctors per inhabitant. Statistics from the Directorate-General for Public Health for 1989 show one doctor for every 12,423 inhabitants, while the fertility rate is 194 per thousand.

School enrolment

13. Considerable efforts are being made to promote school enrolment. The slogan "Schooling for all" is often used to reflect the policy of mass training. Despite these efforts only 61 per cent of children between the ages of 6 and 11 were enrolled in 1988, although this rate is very encouraging by comparison with the enrolment situation in other sub-Saharan States.

Proportion of women heads of families

14. The proportion of women heads of families is estimated at 20.5 per cent. This rate varies according to region: it is 26.3 per cent in the towns and 18.1 per cent in rural areas.

Socio-economic indicators

15. Data derived from the publications of the Directorate for Economic Affairs give the following socio-economic indicators:

16. In 1990, the Gross National Product (GNP) was CFAF 435 billion. It rose to CFAF 446 billion in 1991 and CFAF 459 billion in 1992.

17. The Gross Domestic Product (GDP) in current prices has varied significantly over the past three years. It was CFAF 445,826 billion in 1990, CFAF 457,613 billion in 1991 and CFAF 488,330 billion in 1992.

18. On the basis of the above data, the following estimates may be made:

(a) In 1981, per capita GNP was CFAF 90,000. On the basis of a population of approximately 3.5 million in 1992, per capita GNP was estimated at CFAF 131,142;

(b) Per capita GDP, which was CFAF 95,900 in 1981, had risen to CFAF 127,378 by 1990.

19. Over the period 1990-1992, inflation rates were as follows:

2.9 per cent in 1990;

3.0 per cent in 1991;

2.8 per cent in 1992.

Amount of the external debt

20. Togo's outstanding external debt was estimated at CFAF 357 billion on 31 December 1992.

Rate of unemployment

21. Togo, like other countries, is confronted with the problem of unemployment. States are encountering numerous difficulties in ensuring employment for all their citizens. Employment statistics are insufficient to give a precise indication of the unemployment rate. Figures are often given for the number of unemployed, but they do not reflect reality.

22. A survey is being conducted by the National Employment Agency to determine the number of unemployed precisely. The recent establishment of this Agency is encouraging. It is currently executing the employment-training programme initiated by the Government. Several young unemployed persons have found jobs thanks to this programme.

II. POLITICAL HISTORY

From independence to the Sovereign National Conference

23. Between the time of Togo's accession to international sovereignty and 1991, it had four constitutions, each with its own characteristics.

24. The first Constitution, which terminated the multi-party system, allowed little scope for freedoms and led to a police regime. After the dissolution of the National Assembly on 1 March 1961, new legislative elections and a constitutional referendum were held on 9 April 1961. The new Constitution adopted provided for a presidential-type regime with the office of President of the Republic.

25. Although the Second Republic adopted a Constitution on 5 May 1963, the structural weaknesses of the authorities prevented the Togolese people from enjoying any of the freedoms it formally guaranteed. The political crisis deriving from the internal struggles between the political parties, disorder and genuine threats to the country's unity and independence led to the interruption of the constitutional regime. As a result, the political parties were dissolved in 1967. As from 1969, the Head of State proposed that the country should revert to normal constitutional activity based on two political parties. Since this proposal did not receive popular support, the President of the Republic had to resolve to continue the construction of national unity in the context of a "national melting-pot" known as the Rassemblement du Peuple Togolais (RPT), which had the distinctive feature of bringing the Togolese people together regardless of their subsequent political sensitivities. Togo thus experienced a constitutional vacuum from 1967 to 1979.

26. The Constitution adopted on 30 December 1979 and promulgated on 9 January 1980 filled this constitutional vacuum. It set up the Legislature and the Judiciary, and put the RPT at the centre of political activity. It provided for the election of the Head of State by direct universal suffrage for a term of seven years (1980 Constitution, art. 12). The President of the Republic appointed and dismissed ministers (art. 17); the Executive did not comprise the office of Prime Minister.

27. The 1980 Constitution provided for the election of deputies by direct suffrage for a five-year term on the nomination of the RPT. But after the first Legislature, from 1980 to 1985, candidates in the legislative elections could stand freely, without the backing of the party.

28. Title IX of the Constitution was devoted to the Judiciary. Decree No. 78-35 of 7 September 1978 organized the Judicial system in Togo. It provided for:

(a) The courts of first instance;

(b) The Court of Appeal; and

(c) The Supreme Court.

29. For two decades, Togo, like many other African States, has had a system which has evolved very rapidly with the establishment, for example, of the freedom of candidates to stand in the legislative elections.

30. From 1987, the Head of State took the initiative of establishing the National Human Rights Commission (CNDH), an institution that was unique in Africa at that time. The CNDH has received the unfailing support of the Government and has undoubtedly contributed to the acceleration of human rights policy in our country.

31. By Act No. 25-90 of 30 November 1990 establishing the Press Code, President Eyadéma liberalized the press. At present 60 newspapers or periodicals are published in Togo.

32. Shortly afterwards, Act No. 91-4 of 12 April 1991 established the political parties' charter and introduced the multi-party system. This Act has permanently opened up Togolese politics.

33. The Head of State, wishing to eliminate all tension from Togolese political activity, promulgated Act No. 91-2 of 12 April 1991 establishing a general amnesty. Under this Act, all persons who had participated in plots against Togo were allowed to return to the country. On 8 July 1991 the Sovereign National Conference (CNS) opened and, contrary to its proclaimed objectives, became a veritable people's tribunal directed against the leading figures of the existing regime.

The democratic transition

34. The CNS adopted a fundamental instrument setting out the powers of the various organs during the period of transition. This instrument was Act. No. 7 of the CNS of 23 August 1991. The organs in question were required in principle to maintain relations of consultation aimed at the success of the various responsibilities assigned to them. Very soon, however, their relations became strained and conflicts broke out, with repercussions on the smooth conduct of the transition. In fact, all the powers of the State were vested in the designated, non-elected organs, such as the High Council of the Republic (HCR) and the "Primature". The powers of the State were: (a) the HCR; (b) the Executive; and (c) the Judiciary.

35. The transitional legislative authority, the HCR, was the subject of title III of the Constitutional Act. It was made up of 79 members elected by the Sovereign National Conference. Members were drawn from the political parties, associations, socio-professional circles, etc. (Constitutional Act, art. 17, of 23 August 1991). Among other powers, it exercised the legislative function, supervised the execution of the decisions of the Sovereign National Conference, and monitored the defence and promotion of human rights.

36. The Executive was the subject of titles IV and V of the transitional Constitutional Act and was represented by the President of the Republic and the Prime Minister, the latter being designated by the CNS. The President of the Republic ensured the continuity of the State, was the guarantor of national unity and independence and Supreme Chief of the armed services, represented the State abroad, submitted the draft constitution to a referendum and was kept informed of the activities of the Government. The Prime Minister presided over the Council of Ministers, made appointments to civil and military posts, and led the Government in conducting national policy and making preparations for the constitutional referendum and elections.

37. The Judiciary was the subject of title VII of Act No. 7. These provisions proclaimed the independence of the magistrature and the separation of the Judiciary from the other powers. It was the guardian of the fundamental rights and freedoms of citizens.

The Constitution of the Fourth Republic

38. The Constitution of the Fourth Republic was adopted by referendum on 27 September 1992 and promulgated on 14 October 1992. It provides for an Executive headed by a President of the Republic and a Prime Minister.

39. The President of the Republic, as Head of State, is the guarantor of territorial integrity, national unity, and observance of the Constitution and international treaties and agreements (Constitution, art. 58). He is elected by direct universal suffrage for a five-year term renewable only once (Constitution, art. 59).

40. The Prime Minister is the Head of Government. In this capacity, he coordinates the functions of the other members of the Government (Constitution, art. 78).

41. Legislative authority is exercised by a single body known as the National Assembly, whose members have the title of deputy. They are elected for a five-year term and may be re-elected (Constitution, art. 52).

42. On the question of relations between the Government and the National Assembly, provision is made for a procedure whereby the Government may be challenged before the National Assembly through a vote of confidence (Constitution, art. 97) or a censure motion (art. 98).

43. The Judiciary is independent of the Legislature and the Executive, and is the subject of title VIII of the Constitution. The new 1992 Constitution includes the following distinctive features: establishment of political pluralism (Constitution, arts. 6-9), guarantees for the protection and promotion of human rights. Considerable attention is devoted to political and trade-union freedoms and human rights (Constitution, arts. 10-50).

44. The new Constitution has introduced innumerable innovations, including the establishment of the Constitutional Court, the Audit Office, the Supreme Authority for Broadcasting and Communications, the Economic and Social Council, the High Court of Justice and the constitutionalization of the National Human Rights Commission. The setting-up of these institutions will require considerable financing.

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED IN TOGO

45. The need to protect human rights is stressed in the relevant legislation. Through the establishment of the National Human Rights Commission (CNDH), efforts are being made to guarantee the rights and freedoms of citizens.

A. The public institutions responsible for human rights

46. Given that the Constitutional Act confers independence on it, Togolese justice will act as guardian of rights and freedoms. But the institutions which in recent years have played an important part in the protection and defence of human rights have been the CNDH and the Ministry of Human Rights.

The National Human Rights Commission (CNDH)

47. At the initiative of the President of the Republic, the CNDH was established on 9 June 1987 by Act No. 87-09 of 9 June 1987. It is a civil-law institution, with the following essential objectives:

(a) To protect the rights of citizens;

(b) To consider and recommend to the authorities any bills concerning human rights with a view to their adoption;

(c) To organize seminars and symposia on human rights;

(d) To express opinions on human rights issues.

48. As to remedies, any individual who considers that one of his rights, particularly a civil or political right, has been violated or that he has suffered as a result of an act or an omission by the Government may submit a petition to the Commission. The petition may be submitted by a third party or by a non-governmental organization.

49. The CNDH is forbidden to intervene in a judicial proceeding, except in the event of a miscarriage of justice.

50. The petitioner does not have an obligation to exhaust internal remedies; he may choose to bring the matter first before the Commission, which acts solely as a mediator since its decisions are not accompanied by a writ of enforcement. Whenever a matter is brought before it, the CNDH undertakes investigations and on-site inquiries, and contacts the authorities concerned. Thus, within three days of receiving a petition, the Executive Committee of the Commission, which is composed of five members, must meet to consider the petition and, if it is admissible, to appoint a member of the Commission as special rapporteur to conduct an inquiry. The special rapporteur must be allowed access to any reports, records and other documents and to any objects and premises connected with the inquiry.

51. During its first two mandates from 1987 to 1989, the CNDH was frequently called upon to take action. It produced two reports justifying its action.

52. The number of petitions has increased over the past three years because of the social and political troubles, which have prevented the CNDH from functioning or producing further reports.

53. In line with its adherence to the principles of human rights, the Government has established the Ministry of Human Rights in order to reinforce the activities of the CNDH.

The Ministry of Human Rights

54. The Ministry of Human Rights, which was established following the reorganization of the Togolese Government in January 1992, has been given responsibility for implementing the Government's human rights policy and coordinating initiatives in this area. The Ministry's efforts are aimed at promoting human rights and instructing the Togolese people in their rights and duties. In this connection, the Ministry has organized lectures/discussions on various subjects relating to human rights and democracy, in Lomé and in the interior. At the international level, the Ministry has participated in various seminars, symposia and workshops.

55. The Ministry of Human Rights has received a number of petitions relating to the protection of human rights. Many of these cases fall within the competence of the courts or other ministries. The Ministry of Human Rights also has the essential task of ensuring improved follow-up and effective implementation, in domestic legislation, of the provisions of the international human rights instruments ratified by Togo. In this context, and in conjunction with the other competent ministries, it undertakes the preparation of the reports to be sent to the OAU's Commission on Human and Peoples' Rights, in accordance with article 62 of the African Charter on Human and Peoples' Rights, and to the United Nations Human Rights Committee, in accordance with the provisions of article 40 of the International Covenant on Civil and Political Rights.

56. By examining the various provisions enacted at the national level, the Ministry of Human Rights will be able to determine national practices with regard to human rights and make proposals for improving them by updating them and adopting new legislation consistent with international standards.

B. The situation of human rights in Togo

57. Ever-increasing importance is attached to human rights questions in Togo. They are given pride of place in fundamental legislation and are to be disseminated and publicized more widely among the public.

58. The period of democratic transition has given rise to substantial social and political tension, which has been reflected in inter-ethnic disturbances and numerous breaches of law and order. Public and private property has been regularly attacked by demonstrators: houses have been destroyed, blown up and ransacked and damage has been considerable. There has been incitement to tribal hatred, which has led to people taking the law into their own hands in the towns, villages and neighbourhoods.

59. The situation has deteriorated throughout the democratic process, and the police and security forces have been hard put to it to perform their duties effectively. In these circumstances, the authorities responsible for maintaining law and order and the judicial authorities have also had great difficulty in discharging their responsibilities. It therefore appeared advisable that the various parties to the democratic process should find solutions to the political crisis in Togo.

60. A joint commission was accordingly set up on 28 July 1992 comprising a delegation sympathetic to the President and an opposition delegation represented by eight political parties. The work of this joint commission centred on divergencies relating to the organization of elections, amendment of the various provisions relating thereto (Electoral Code and draft Constitution) and, above all, the essential question of the extension of the period of transition which, in accordance with article 66 of Act No. 7, was due to end after 12 months, in other words, on 28 August 1992. The various parties concerned agreed on an extension of the transition period to 31 December 1992 conditional upon the setting-up of the transition organs. A legal context had to be found for that purpose.

61. Draft legislation was accordingly submitted to the HCR for adoption by the joint commission. This legislation included:

(a) Act No. 92-001/PR of 27 August 1992 amending Act No. 7 of the Sovereign National Conference of 23 August 1991, the constitutional act organizing the various powers during the transition period;

(b) Act No. 92-2/PR of 27 August 1992 amending the draft Constitution annexed to Act No. 4 of 20 July 1992 organizing the constitutional referendum;

(c) Act No. 92-3/PR of 27 August 1992 maintaining the composition of the High Council of the Republic; and

(d) Act No. 92-4/PR of 27 August 1992 providing that the Prime Minister should remain in office.

62. Following this political readjustment, the President of the Republic regained most of his powers, notably chairmanship of the Council of Ministers, depending on the importance of the agenda.

63. In its conclusions, the joint commission stated that its's aims were mainly to place the conduct of Togolese politics on a footing of consensus between the Head of State and the Prime Minister. Despite the joint commission's efforts, however, it did not prove possible to hold the elections within the new time-limit.

64. After the extension of the transition and the formation of the new Government, tension remained high and gave rise to a general strike and clashes between followers of different movements. In order to remedy this situation, a crisis Government was formed, headed by the Prime Minister, who was redesignated by decree of the President of the Republic. This Government is called upon to function on the basis of a minimum seven-point political programme, whose main aim is to restore security with a view to the successful conclusion of the democratic transition.

C. Incorporation of international human rights provisions in the internal order and remedies

Incorporation in the internal order

65. The new legislation enacted since democratic liberalization is in line with the international provisions on human rights, which figure prominently in that legislation.

66. The preamble to the Togolese Constitution stipulates that the Togolese State is committed to the protection of human rights as defined by the 1945 Charter of the United Nations, the 1948 Universal Declaration of Human Rights, the 1966 International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and the 1981 African Charter of Human and Peoples' Rights. Title I of the Constitution is, in fact, exclusively devoted to rights and freedoms.

67. The Electoral Code (Act No. 92-3 of 8 July 1992) contains provisions governing the organization of election campaigns and voting procedures. The Charter of the Political Parties organizes political competition between the various political parties, whose functioning is admitted in the new pluralist political context. Freedom of the press is ensured by Act No. 90-25 of 30 November 1990. Similarly, associations engage freely in their activities. All these public freedoms are, however, reflected in other legal instruments (Penal Code, Code of Criminal Procedure, Togolese Family Code, Nationality Code, etc.).

68. The provisions of the international human rights instruments are in fact incorporated in the Togolese Constitution and may thus be invoked before the Togolese courts.

Remedies

69. On the question of remedies, any individual who considers that his human rights have been violated may approach the private institutions for the defence of human rights, human rights associations and leagues, the CNDH or the courts.

70. The first two types of institution simply play a mediatory role. Only the courts are able, when the violations have been proved, to restore the victims' rights. In addition, since Togo is a party to the Optional Protocol, private individuals are able to submit communications to the Human Rights Committee.

The competent authorities in the area of human rights

71. The authorities competent to deal with cases of human rights violations are the members of the CNDH, officials of the Ministry of Human Rights, and the judicial and administrative authorities.

INFORMATION AND PUBLICITY

72. Ever since its establishment, the CNDH has periodically conducted nationwide human rights awareness and education campaigns. It also organizes training seminars and symposia. The leagues and associations organize similar activities, as does the Ministry of Human Rights.

73. During recent years, there has been a significant increase in the publicity given to the provisions of the Universal Declaration of Human Rights through educational television programmes. The establishment of the Directorate for Promotion within the Ministry of Human Rights represented a further step in this direction.

74. With a view to the effective implementation of all provisions relating to human rights, further efforts must be made in the areas of public awareness and education. Similarly, the teaching of human rights, which is provided for in the Togolese education system but not yet fully practised, must be put into effect. The fact that periodic reports are required by various United Nations bodies means that the Government should pay particular attention to this question. All these initiatives necessitate human and financial investments. The assistance of the United Nations agencies is essential if these objectives are to be attained.